

Appl. No. : 10/646,097
Filed : August 22, 2003

REMARKS

This is responsive to the Examiner's Office Action mailed April 21, 2005. Applicant has hereby amended Claim 59. Thus, Claims 59-70 remain pending in this application.

The status of all claims and the text of all pending claims are shown above. The specific changes to the amended claim and specification are shown by ~~strike through~~ for any deletions and underlining for any insertions.

SPECIFICATION

The Examiner objected to the "Related Applications" section of the disclosure because the status of the parent application had not been updated.

As shown above, Applicant has amended the specification accordingly. Thus, Applicant respectfully requests the Examiner to withdraw this objection.

INDEFINITENESS REJECTION

The Examiner rejected Claims 59-64 under 35 U.S.C. § 112¶2 as being indefinite. More particularly, the Examiner asserted that in Claim 59 "the resistance" lacks antecedent basis and Claims 60-65 depend from Claim 59.

As shown above, Applicant has amended Claim 59 to delete "the" and remove the objectionable language. Accordingly, Applicant respectfully requests the Examiner to withdraw the indefiniteness rejection.

DOUBLE PATENTING

The Examiner rejected Claims 65-69 under obviousness-type double patenting as being unpatentable over Claims 13, 14, 18, 19, 20 and 27 of U.S. Patent No. 6,610,101 B2.

Applicant will consider filing a Terminal Disclaimer once the application is in condition for allowance. Until then, Applicant respectfully requests the Examiner to hold the double patenting rejection in abeyance.

35 U.S.C. § 102(E) REJECTIONS

The Examiner rejected Claims 59-70 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,423,098 B1 to Biedermann (hereafter "Biedermann"); and Claims 59-70 under

Appl. No. : 10/646,097
Filed : August 22, 2003

35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,764,520 B2 to Deffenbaugh et al. (hereafter "Deffenbaugh").

Applicant respectfully traverses these rejections and the Examiner's characterization of the cited references.

Applicant's independent Claims 59 and 65 both recite, among other things "a magnetorheological damper operating in shear mode." This is not taught or suggested by Biedermann.

Biedermann discloses a leg prosthesis that displaces or moves a magneto-rheological liquid. Biedermann never mentions the term "shear" in his disclosure nor does he ever teach or suggest that the liquid is sheared in any form or manner. Thus, Biedermann cannot possibly anticipate Applicant's Claims 59 and 65.

Claims 60-64 depend from Claim 59 and Claims 66-70 depend from Claim 60, and each recites a unique set of features not taught or suggested by the prior art.

Deffenbaugh does not appear to disclose a prosthetic knee system and method of controlling a prosthetic knee system as set forth in Applicant's Claims 59-70. Applicant respectfully requests the Examiner to specifically point out in Deffenbaugh where support for each of the claimed limitations is present.

In any event, Deffenbaugh and the instant application share a common inventor. Applicant reserves the right to swear behind the Deffenbaugh reference and disqualify it as prior art.

INFORMATION DISCLOSURE STATEMENT

Applicant has enclosed herewith a Supplemental Information Disclosure Statement. The Examiner's consideration of this Information Disclosure Statement is respectfully requested.

Appl. No. : 10/646,097
Filed : August 22, 2003

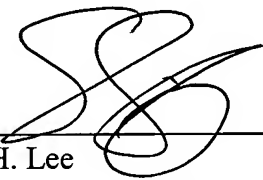
CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-22-05

By: 
Sabing H. Lee
Registration No. 43,745
Attorney of Record
Customer No. 20,995
(949) 760-0404

1882846
082205